IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3059 OF 2007

Shri Bhupatrai Maganlal Gandhi. ... Applicant.

V/s.

The State of Maharashtra
and another. ... Respondents.

D.B.Shukla with A.K.Rao for the applicant.

S.S.Pednekar, A.P.P. for the State.

J.C.Satpute for respondent No.2.

CORAM: V.C.DAGA, J.

DATED: 12th October 2007.

P.C.:

. Heard learned counsel for the rival parties.

. Perused record.

2. The applicant is seeking bail in connection with R.A.No.64/2007 registered with Department of Revenue Intelligence, Mumbai (D.R.I.) for the offences punishable under section 135(1)(i) of the Customs Act.

3. The prosecution story, in brief, is that the applicant/accused is a Director of M/s.Park Organics, a limited company. He was arrested on 14th August,

2007 under the provisions of the Customs Act, 1962

(which has amended in 2007) for importing citric acid monohydrate, which attracts Anti-Dumping Duty, if found to be of Chinese origin.

4. M/s.Park Organics Ltd. imported four consignments of aforesaid product by misdeclaring the name of the country of origin as Korea; whereas goods have originated from Peoples Republic of China. This was done by the applicant- importer with a view to evade the payment of Anti Dumping Duty. If the country of origin of goods is shown as Korea, then Anti-Dumping Duty is not payable. However, if the import is made from China the said Duty is impossable/ payable.

5. The bail application moved by the applicant before the Sessions Court, being Bail Application No.1440/2007 came to be rejected vide order dated 11th September, 2007 passed by learned Additional Sessions Judge, Mumbai. Hence, applicant has invoked jurisdiction of this Court to seek bail.

6. Considering the provision of section 135 of the Customs Act (prior to amendment) and the sweep thereof, in my considered view, the applicant would be entitled to be released on bail, however, subject to

certain terms and conditions mentioned hereinbelow:

(a) The applicant, arrested in connection with R.A.No.64/2007 registered with D.R.I., Mumbai shall be enlarged on bail in the sum of Rs.5,00,000/- (five lakh only) with one or two local solvent sureties to make up the said amount.

(b) The applicant shall report to the investigating officer, D.R.I. twice a week, i.e. on every Monday and Friday between 3.00 to 5.00 p.m. till conclusion of the trial. He shall co-operate with the investigating agency for disposal of the case.

(c) The applicant shall deposit his passport with the investigating officer, D.R.I., Mumbai.

(d) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail.

The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(e) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(f) It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(g) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

7. Application stands disposed of accordingly.

JUDGE